

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Deer Grove Post Office
Deer Grove, Illinois

Docket No. A2012-44

ORDER AFFIRMING DETERMINATION

(Issued February 16, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On October 28, 2011, Galen R. Hooper (Petitioner) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Deer Grove, Illinois post office (Deer Grove post office).² The Final Determination to close the Deer Grove post office is affirmed.³

II. PROCEDURAL HISTORY

On November 9, 2011, the Commission established Docket No. A2012-44 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁴

On November 14, 2011, the Postal Service filed the Administrative Record with the Commission.⁵ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁶

² Petition for Review Received from Galen R. Hooper Regarding the Deer Grove, Illinois Post Office 61243, October 28, 2011 (Petition).

³ The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

⁴ Order No. 961, Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 9, 2011.

⁵ The Administrative Record is attached to the United States Postal Service Notice of Filing, November 14, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Deer Grove, IL Post Office and Establish Service by Rural Route Service (Final Determination).

⁶ United States Postal Service Comments Regarding Appeal, December 22, 2011 (Postal Service Comments).

Petitioner filed a participant statement supporting his Petition.⁷ The Commission also received a letter from Gilbert Hostetler objecting to the closure of the Deer Grove, Illinois post office.⁸ On January 6, 2012, the Public Representative filed comments.⁹

III. BACKGROUND

The Deer Grove post office provides retail postal services and service to 44 post office box customers. Final Determination at 2. Ninety-three delivery customers are served through this post office. The Deer Grove post office, an EAS-11 level facility, provides retail service from 7:30 a.m. to 12:30 p.m. and 1:30 p.m. to 4:00 p.m., Monday through Friday, and 8:00 a.m. to 9:30 a.m. on Saturday. Lobby access hours are 7:30 a.m. to 4:30 p.m., Monday through Friday, and 8:00 a.m. to 10:00 a.m. Saturday. *Id.*

The postmaster position became vacant on November 30, 2009 when the Deer Grove postmaster retired. An OIC was installed to operate the post office. Retail transactions average 40 transactions daily (40 minutes of retail workload). Post office receipts for the last three years were \$26,026 in FY 2008; \$23,100 in FY 2009; and \$19,911 in FY 2010. *Id.* There is one permit or postage meter customers. By closing this post office, the Postal Service anticipates savings of \$41,954 annually. *Id.* at 9.

After the closure, retail services will be provided by the Tampico post office located approximately 6 miles away.¹⁰ *Id.* at 2. Delivery service will be provided by rural route service through the Tampico post office. The Tampico post office is an EAS-16 level post office, with retail hours of 8:00 a.m. to 12:30 p.m. and 1:00 p.m. to 4:00 p.m., Monday through Friday, and 9:00 a.m. to 11:00 a.m. on Saturday.

⁷ Participant Statement received from Galen R. Hooper, December 7, 2011 (Participant Statement).

⁸ Letter Received from Gilbert Hostetler regarding the Deer Grove, Illinois Post Office 61243, December 19, 2011.

⁹ Public Representative Comments, January 6, 2012 (PR Comments).

¹⁰ MapQuest estimates the driving distance between the Deer Grove and Tampico post offices to be approximately 6.92 miles (10 minutes driving time).

One-hundred-ninety-six (196) post office boxes are available. *Id.* The Postal Service will continue to use the Deer Grove name and ZIP Code. *Id.* at 2, Concern No. 2.

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioner opposes the closure of the Deer Grove post office. Petitioner contends that closure of the Deer Grove post office will result in a loss of community identity. Petition at 2. He notes that closure will be a hardship for the many senior citizens of Deer Grove, as well presenting particular difficulties to the Amish community, who are not able to procure postal services online. *Id.* at 1-2; Participant Statement at 1. Petitioner asserts that rural route service will not provide Deer Grove customers with the required maximum degree of regular and effective postal services. Petition at 2. Petitioner argues that the Deer Grove post office is being closed solely because it does not have a postmaster, and that the experienced OIC should have been made postmaster when the previous postmaster retired. Participant Statement at 2. Petitioner also questions the Postal Service's calculation of economic savings. *Id.*

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Deer Grove post office. Postal Service Comments at 2. The Postal Service believes the appeal raises four main issues: (1) the effect on postal services; (2) the impact on the Deer Grove community; (3) the economic savings expected to result from discontinuing the Deer Grove post office; and (4) the impact on employees. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Deer Grove post office should be affirmed. *Id.* at 1-2.

The Postal Service explains that its decision to close the Deer Grove post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;

- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- little recent growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 4. The Postal Service contends that it will continue to provide regular and effective postal services to the Deer Grove community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, effect on the Deer Grove community, economic savings, and effect on postal employees. *Id.* at 5-13.

Public Representative. The Public Representative contends that the Postal Service has followed applicable procedures, that the Postal Service's decision to close the Deer Grove post office is supported by substantial evidence, and is neither arbitrary nor capricious. PR Comments at 1.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the

Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The record indicates the Postal Service took the following steps in providing notice of its intent to close. On March 24, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Deer Grove post office. Final Determination at 2. A total of 137 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. A total of 46 questionnaires were returned. On April 11, 2011, the Postal Service held a community meeting at Arnie's Happy Spot to address customer concerns. Fifty-four (54) customers attended. *Id.*

The Postal Service posted the proposal to close the Deer Grove post office with an invitation for comments at the Deer Grove and Tampico post offices from May 3, 2011 through July 4, 2011. Final Determination at 2. The Final Determination was posted at the same two post offices from October 17, 2011 through November 18, 2011. Administrative Record, Item No. 49.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Deer Grove, Illinois is an unincorporated community located in Whiteside County, Illinois. Administrative Record, Item No. 16. The community is administered politically by the Village President and Board of Trustees. Police protection is provided by the Whiteside County Sheriff. Fire protection is provided by the Walnut Fire and Rescue. The community is comprised of retired people, farmers/ranchers and those who work in local businesses or commute to work in nearby communities. *Id.* Residents may travel to nearby communities for other supplies and services. *See generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Deer Grove community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Deer Grove post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 7-8.

Petitioner contends that closure of the Deer Grove post office will result in a loss of community identity. Petition at 2. The Postal Service asserts that a community's identity derives from the interest and vitality of its residents and their continued use of its name. Postal Service Comments at 9. The Postal Service states that it is attempting to preserve community identity through continued use of the Deer Grove name and ZIP Code. *Id.*

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Deer Grove postmaster retired on November 30, 2009 and that an OIC has operated the Deer Grove post office since then. Final Determination at 8. It asserts that after the Final Determination is implemented, the temporary OIC may be separated and that no other Postal Service employee will be adversely affected. *Id.*

Petitioner argues that the Deer Grove post office is being closed solely because it does not have a postmaster. Participant Statement at 2. He asserts that the Deer Grove OIC is very helpful, has 25 years of experience and should have been made postmaster when the previous postmaster retired. *Id.* The Postal Service responds that it appreciates Petitioner's praise for the OIC, but states that it must consider efficiency of operations when making its Final Determination. Postal Service Comments at 12.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Deer Grove post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Deer Grove customers. Postal Service Comments at 5. It asserts that customers of the closed Deer Grove post office may obtain retail services at the Tampico post office located 6 miles away. Final Determination at 2. Delivery service will be provided by rural route service through the Tampico post office. The Deer Grove post office box customers may obtain Post Office Box service at the Tampico post office, which has 196 boxes available. *Id.*

For customers choosing not to travel to the Tampico post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 6. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

Petitioner argues that rural route service will not provide Deer Grove customers with the required maximum degree of regular and effective postal services. Petition

at 2. He contends that closure will be a hardship for the many senior citizens of Deer Grove, as well presenting particular difficulties to the Amish community, who cannot avail themselves of the alternative online postal services. *Id.* at 1-2; Participant Statement at 1. Petitioner is concerned about the security of purchasing a money order through the rural carrier. Petition at 2.

The Postal Service responds that it is not necessary to travel to another post office to obtain services, as they are available from the rural carrier. Postal Service Comments at 6. It notes that it has received no reports of vandalism in the area. *Id.* at 8. The Postal Service asserts that the Deer Grove community will continue to receive regular and effective postal services. *Id.* at 5.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$41,954. Final Determination at 9. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$4,200), minus the cost of replacement service (\$6,525). *Id.*

Petitioner questions the Postal Service's calculation of economic savings, contending that the amount may be overstated. Participant Statement at 2. The Postal Service responds that its estimates are supported by record evidence. Postal Service Comments at 11.

The Commission has previously observed that the Postal Service should include in its estimate of savings those costs likely to be eliminated by the closing. The Deer Grove post office postmaster retired on November 30, 2009. Final Determination at 8. The post office has since been staffed by an OIC who, upon discontinuance of the post office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Deer Grove post office

has been staffed by an OIC for approximately two years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Deer Grove post office is affirmed.¹¹

It is ordered:

The Postal Service's determination to close the Deer Grove, Illinois post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

¹¹ See footnote 3, *supra*.

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Deer Grove post office has been operated by an officer-in-charge (OIC) since the former postmaster retired on November 30, 2009. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data were in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered evaluation of potential savings.

The community includes an Amish population that may rely disproportionately more on postal services yet may have access to fewer transportation options. A 6.9 mile driving distance to the next nearest post office in Tampico may be an impediment to access for those who rely exclusively on non-motorized vehicles and the longer time such a round trip would require. The Administrative Record does not

demonstrate that the Postal Service took the special needs of this community into effect and thus the Postal Service has not adequately considered the effect of such closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Deer Grove, Illinois and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The current lease does not terminate until December 31, 2015, and does not have a 30-day termination clause. Administrative Record, Item 15 at 1. The Postal Service should note that any savings from the lease will not be realized for at least three years.

In addition, since the postmaster retired on November 30, 2009, a non-career postmaster relief (PMR) has been in charge of this facility. Postal Service Comments at 2. The Postal Service should take into consideration that a PMR has been in charge of this facility since November 2009, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Deer Grove post office and should be remanded.

Nanci E. Langley